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सं. 36] नई दिल्ली, सितम्बर 4—सितम्बर 10, 2022, शनिवार/भाद्र 13—भाद्र 19, 1944
No. 36] NEW DELHI, SEPTEMBER 4—SEPTEMBER 10, 2022, SATURDAY/BHADRA 13—BHADRA 19, 1944

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

शिक्षा मंत्रालय

(उच्च शिक्षा विभाग)

नई दिल्ली, 2 अगस्त, 2022

का.आ. 780.—लोक परिसर (अनधिकृत कब्जाधारियों को वेदखल करना) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार एतद्वारा नीचे दी गई तालिका के कॉलम (1) में उल्लिखित अधिकारी, जो भारत सरकार के राजपत्रित अधिकारी की रैंक के बराबर के अधिकारी हैं, को उक्त अधिनियम के प्रयोजनार्थ संपदा अधिकारी के रूप में नियुक्त करती है, जो उक्त तालिका के कॉलम (2) में विनिर्दिष्ट लोक परिसर के संबंध में अपने अधिकार क्षेत्र की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा अथवा उसके तहत संपदा अधिकारियों को सौंपे गए कार्यों का निष्पादन करेंगे और प्रदत्त शक्तियों का प्रयोग करेंगे:-

तालिका	
अधिकारी का पदनाम	लोक परिसरों की श्रेणियाँ और अधिकार क्षेत्र की स्थानीय सीमाएँ
(1)	(2)
रजिस्ट्रार, सरदार वल्लभभाई राष्ट्रीय प्रौद्योगिकी संस्थान, सूरत	सरदार वल्लभभाई राष्ट्रीय प्रौद्योगिकी संस्थान, सूरत से सम्बंधित और इसके प्रशासनिक नियंत्रणाधीन समस्त परिसर

[फा. सं. 17-2/2022 टीएस. III]

इंद्रजीत कुरी, अवर सचिव

MINISTRY OF EDUCATION
(Department of Higher Education)
New Delhi, the 2nd August, 2022

S.O. 780.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below being an officer equivalent to the rank of gazetted officer of the Government of India to be the Estate Officer for the purposes of the said Act who shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said Table:-

TABLE	
Designation of Officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
Registrar, Sardar Vallabhbhai National Institute of Technology, Surat	All the premises belonging to and under the administrative control of the Sardar Vallabhbhai National Institute of Technology, Surat

[F. No. 17-2/2022-TS.III]

INDRAJIT KURI, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 13 जुलाई, 2022

का.आ. 781.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 12/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.07.2022 को प्राप्त हुआ था।

[सं. एल-20012/9/2008-आई.आर. (सीएम-1)]

राजेन्द्र सिंह, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 13th July, 2022

S.O. 781.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2008) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 12.07.2022.

[No. L-20012/9/2008-IR (CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947**Reference: No. 12/2008**

Employer in relation to the management of Bhowra Area of M/s. BCCL.

AND**Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer**Appearances:**

For the Employers :- None

For the workman. :- None

State : Jharkhand.

Industry:- Coal

Dated : 30.05.2022

AWARD

By Order No.L-20012/9/2008-(IR(CM-I)) dated 12.03.2008 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Bhowra (S) Colliery of M/s. BCCL in denial to fix proper pay with benefit of wage protection to S/Shri Yogendra Paswan, Devlal Mahato, Bhagirath Mahato and Bimal Hembram, Drillers/Dressers, is justified and legal? If not, to what reliefs are the concerned workmen entitled?”

2. The reference is received on 26/03/2008 by this Tribunal in which the Vice President, Janta Mazdoor Sangh, Dhanbad had been advised to submit statement of claim along with relevant document within fifteen days but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but neither the union/workman nor the management appeared before the Tribunal. Now Case is pending since 26/03/2008 and workman/union as well as management is not appearing before Tribunal. So, it is felt that workman/union has lost its interest in this matter. Hence No “Claim Award” is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 18 अगस्त, 2022

का.आ. 782.—राष्ट्रपति, श्री ज्योति कुमार त्रिपाठी को दिनांक 17 अगस्त, 2022 के पूर्वाह्न से 16 अगस्त, 2026 तक 4 वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, तक के लिए केंद्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय न. 1, चंडीगढ़ में पीठासीन अधिकारी के पद पर नियुक्त करते हैं।

2. श्री ज्योति कुमार त्रिपाठी की पीठासीन अधिकारी, केंद्रीय सरकार औद्योगिक अधिकरण सह-श्रम न्यायालय के पद पर नियुक्ति अधिकरण सुधार अधिनियम, 2021 और उसके तहत बने नियम यानि अधिकरण (सेवा की शर्तें) नियम, 2021 के अनुसार विनियमित की जाएगी।

[सं. अ-19011/02/2022-सीएलएस-II(ई)]

एस आर दत्ता, उप सचिव

New Delhi, 18th August, 2022

S.O. 782.—The President is pleased to appoint Shri Jyoti Kumar Tripathi as Presiding Officer of Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh for a period of 4 years with effect from the forenoon of the 17th August, 2022 up to 16th August, 2026 or until further orders, whichever is earlier.

2. The appointment of Shri Jyoti Kumar Tripathi as Presiding Officer, CGIT-cum-LC shall be regulated in terms of the Tribunal Reforms Act, 2021 and the rules made thereunder, i.e. Tribunals (Conditions of Service) Rules, 2021.

[No. A-19011/02/2022-CLS-II(E)]

S. R. DATTA, Dy. Secy.

नई दिल्ली, 2 सितम्बर, 2022

का.आ. 783.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय पोर्ट ब्लेयर के पंचाट (संदर्भ संख्या 10/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25.08.2022 को प्राप्त हुआ था।

[सं. एल-22011/8/2013-आई (सीएम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 2nd September, 2022

S.O. 783.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2013) of the Central Government Industrial Tribunal-cum-Labour Court PORT BLAIR as shown in the Annexure, in the industrial dispute between the Management of FOOD CORPORATION OF INDIA and their workmen, received by the Central Government on 25.08.2022.

[No. L-22011/8/2013-I (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE COURT OF THE PRESIDING OFFICER LABOUR COURT ANDAMAN AND NICOBAR ISLANDS, PORT BLAIR.

I.D. CASE NO-10 OF 2013

PRESENT:

SHRI BIJOYESH GHOSAL

JUDGE, LABOUR COURT

A & N ISLANDS, PORT BLAIR

Shri. D. Subramaniam

-1st Party

-Versus-

The Management of Food Corporation of India,

Port Blair

2nd Party

DATE OF DELIVERY OF JUDGEMENT: 04th MAY, 2022

JUDGEMENT

By order No.L-22011/8/2013-I(CM)-II dated 17.07.2013, Ministry of Labour, Government of India made reference U/s.10(2A) and U/s.10 (1)(d) of Industrial Disputes Act, 1947 to this Tribunal for adjudication of the dispute as mentioned in the following schedule:-

“Whether the services of Shri. D. Subramaniam, the workman needs to be regularized by the management of Food Corporation of India, Port Blair? And whether the action of the management of Food Corporation of

India, Port Blair in terminating the services of Shri. Subramaniam, the workman w.e.f May, 2011 is legal and/or justified? If not, so what relief Shri. Subramaniam is entitled to?"

Vide Award dated 01.02.2019 this Labour Court answered the reference and held that the action of Management of Food Corporation of India, Port Blair, is legal and justified. It also held that the First Party workman is not entitled to any relief whatsoever.

In this case, the First Party filed a petition on 05.04.2021, informing that the First Party challenged the above Award before Hon'ble Calcutta High Court, Circuit Bench at Port Blair in W.P No.132/2019 and Hon'ble Court set aside the Award and remanded the matter back to decide afresh after taking into consideration of Letter dated 21.04.2009. 1st Party filed xerox of certified copy of order dated 12.03.2021 of the Hon'ble Court in WP-132/2019. Perused.

Hon'ble Calcutta High Court vide Order dated 12.03.2021 in W.P No.1332/2019, set aside the above award on the sole ground of non-consideration of letter dated 21.04.2009 and remanded back to this court for deciding the same afresh in accordance with law after taking into consideration the aforesaid letter.

Thus, this court proceeds to pass the judgment afresh in this matter, after granting opportunity to both sides to lead fresh evidence, however, parties did not lead any further evidence after order of remand back by Hon'ble Court.

WORKMEN'S CASE

The First Party workman filed its statement of claim on 12.01.2013. It stated that First Party was appointed as a Daily Rated Driver under the Second Party on 01.12.1998 and since then till the month of April, 2011 the First Party was working with the Second Party as driver. It stated that all of a sudden from the month of May, 2011 the District Manager, FCI, Port Blair without giving any notice or any order did not allow the First Party to do any job and retrenched First Party from the service without following due process of law. It stated that First Party made several representations to the Second Party for regularization of the service as driver in FCI. But instead of regularization of the service of First Party was retrenched whereas First Party served with full satisfaction of the Second Party as driver. He stated that the First Party worked as driver continuously and without any break. It made representation before the Labour Enforcement Officer to register a case being ID Case No.(01)/2012. However, Second Party denied to reinstate the First Party in the service.

First Party claimed reinstatement of the First Party, regularization of the service, pay of all the subsequent benefits with interest and any other or further orders.

MANAGEMENT'S CASE

The Second Party filed W/O on 18.02.2014. The Second Party Management submitted that the First Party was never appointed by the Second Party nor he worked continuously as required for regularization of workman. It submitted that the First Party worked on need basis with considerable gap and the payment was made out of contingent fund and not from regular fund maintained to pay salaries. It stated that First Party was a Daily Rated Worker on temporary employment or gets engaged as a contractual or as casual worker which is not based on any proper selection as recognized by the relevant rules or procedure and the First Party is aware that his appointment is temporary casual or contractual and cannot legitimately expect for being confirmed without following the proper procedure for selection.

It stated that Area Manager is not the competent authority for recommendations for the case of any Daily Rated Worker. It is denied that the recommendation was made keeping in view of the length of service. Second Party denied for issuance in certificate and stated that the certificate is only with respect to the driving license of First Party. Second Party Management claimed that the claim of First Party is liable to be rejected.

EVIDENCE

First Party workman examined himself as PW-1D. Subramaniam by filing affidavit in chief on 03.07.2014. He marked Ext.-1 to Ext.-17. He was cross-examined in full and discharged.

First Party examined PW-2 Ishwar Singh, Manager, Cargo In-charge of Port Management Board, Port Blair. He proved 14 vehicle entry pass. PW-2 was cross-examined by Second Party in full and discharged.

Second Party examined DW-1 Smt. Neomi, working as Area Manager, FCI and by filing affidavit in chief on 12.10.2018. She was cross-examined in full and discharged. She marked no documents as Exhibits.

POINTS OF DETERMINATION

In answering the reference herein before, the following points of determination are framed, only for clarity:-

1. Whether the First Party workman completed 240 days of work in the preceding 12 calendar months from the date of termination/retrenchment?

2. Whether the termination/retranchment of the First Party workman is illegal or unjustified?
3. Whether the workman is entitled for regularization?
4. To what reliefs the First Party workman are entitled for?

DECISION WITH REASONS

POINT NO.1

In a decision namely Mohd. Ali Vs. State of Himachal Pradesh and others reported in **(2018) 15 Supreme Court cases page-641**, Hon'ble Supreme Court held that the workman was not entitled to the benefit of Section 25F of the Industrial Disputes Act, since he had not worked for required 240 days in the year preceding his dismissal. It is observed that workman as a casual labourer appointed in the year 1980 and dismissed from the service in the year 1991. It is observed that the workman worked only for 190 days in the year 1990 and 195 days in the year immediately preceding his dismissal.

In the above decision it has been held that the workman is deemed to be in continuous service for a period of one year if during the period of 12 calendar months before his date of retranchment has actually worked for not less than 240 days.

As observed under para 11 of the said decision, it appears that the Ld. Counsel appearing on behalf of the workman argued that the Hon'ble High Court misinterpreted section 25B along with section 25F of the Industrial Dispute Act, 1947. He further submitted that it is not necessary that a workman has to complete 240 days period during the period of 12 calendar months immediately preceding his disengagement. Rather, he argued that in as much as once the workman completed 240 days of service in any calendar year of his employment then he becomes entitled for the benefit of the provisions under section 25F of the Industrial Disputes Act. Hon'ble Supreme Court was pleased to refer section 25F and 25B of the Industrial Disputes Act, and dismissed the appeal of the workman holding that the contention of the workman is not sustainable in the eyes of law since provisions are very clear qua the calculation of period. Para 14 of the above decision is reproduced here under :-

“14: It is a well-known fact that the Industrial Disputes Act is a welfare legislation. The intention behind the enactment of this Act was to protect the employees from arbitrary retranchments. For this reason only, in a case of retranchment of any employee who has worked for a year or more, Section 25-F provides a safeguard in the form of giving one month's prior notice indicating the reasons for retranchment to the employee and also provides for wages for the period of notice. Section 25-B of the Act provides that when a person can be said to have worked for one year and the very reading of the said provisions makes it clear that if a person has worked for a period of 240 days in the last preceding year, he is deemed to have worked for a year. The theory of 240 days for continuous service is that a workman is deemed to be in continuous service for a period of one year, if he, during the period of twelve calendar months preceding the date of retranchment has actually worked under the employer for not less than 240 days”

In another decision namely Mohan Lal Vs Bharat Electronics Limited reported in (1981) 3 Supreme Cases page-225 at para 12 Hon'ble Supreme Court laid down the procedure how this 240 days in the last preceding 12 calendar months is to be calculated. Hon'ble Supreme Court held that it is necessary to determine first the relevant date i.e. the date of termination of service which is complained of as retranchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retranchment and ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. It is held that if these three facts are affirmatively answered in favour of the workman pursuant to the deeming fiction enacted in clause 2(a) it will have to be assumed that the workman is in continuous service for a period of one year and he satisfied the eligibility qualifications enacted in the section 25F of the Industrial Dispute Act. For ready reference para 12 of the above decision is reproduce here under:-

“12. Sub-section (2) incorporates another deeming fiction for an entirely different situation. It comprehends a situation where a workman is not in continuous service within the meaning of sub-section (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer for a period of one year or six months, as the case may be, if the workman during the period of 12 calendar months just preceding the date with reference to which calculation is to be made, has actually worked under that employer for not less than 240 days. Sub-section (2) specifically comprehends a situation where a workman is not in continuous service as per the deeming fiction indicated in sub-section (1) for a period of one year or six months. In such a case he is deemed to be in continuous service for a period of one year if he satisfies the conditions in sub-clause (a) of clause (2). The conditions are that commencing (sic) the date with reference to which calculation is to be made, in case of retranchment the date of retranchment, if in a period of 12 calendar months just preceding such date the workman has rendered service for a period of 240 days, he shall be deemed to be in continuous service for a period of one year for the purposes of Chapter V-A. It is not necessary for the purposes of clause (2)(a) that the workman should be in service for a period of one year. If he is in service for a period of one year and that if that service is continuous service within the meaning of

clause (1) his case would be governed by clause (1) and his case need not be covered by clause (2). Clause (2) envisages a situation not governed by clause (1). And clause (2)(a) provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered service for a period of 240 days during the period of 12 calendar months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, **in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date i.e., the date of termination of service which is complained of as retrenchment. After that date is ascertained, move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favour of the workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F. On a pure grammatical construction the contention that even for invoking clause (2) of Section 25-B the workman must be shown to be in continuous service for a period of one year would render clause (2) otiose and socially beneficial legislation would receive a set back by these impermissible assumptions. The contention must first be negative on a pure grammatical construction of clause (2). And in any event, even if there be any such thing in favour of the construction, it must be negative on the ground that it would rendered clause (2) otiose. The language of clause (2) is so clear and unambiguous that no precedent is necessary to justify the interpretation we have placed on it**".

The onus of proving such 240 days service is on the workman as settled by hon'ble Supreme Court. I rely on decision namely Krishna Bhagya Jal Nigam Limited Vs. Mohd. Rafi reported in (2006) 9 Supreme Court Cases 697 where Hon'ble Supreme court held that whether workman worked for continuous period of 240 days in a year, it was held that burden of proof lies on the workman so as to entitle him to the benefits of Section 25F of Industrial Disputes Act. In this decision, it reveals that according to the workman he served the Jal Nigam from 29.10.1989 to 01.04.1996. He further claimed that his services were terminated without complying with provision of Section 25 F of the Industrial Disputes Act. The reference made at the instance of the workman was contested by the Jal Nigam. The Labour Court recorded its finding that the services of the workman had been terminated without complying Section 25F of the Act and therefore, the termination was illegal. Accordingly, the termination was set aside and the Jal Nigam was directed to reinstate the workman with full back wages and continuity of service. This Award was challenged by Jal Nigam in W.P No.40822 of 1999. The Ld. Single Judge of the Hon'ble High Court set aside the Award of Labour Court holding the workman had not discharged the initial onus of proving that he had worked for more than 240 days and therefore, the Award directing workman's reinstatement was illegal. However, the said judgement of Hon'ble Single Judge was challenged in Writ Appeal which was also allowed by the impugned judgement. However, Hon'ble Supreme Court set aside the impugned judgement rendered by the Division Bench of the Karnataka High Court, observing that the same cannot be maintained.

In Range Forest Officer Vs. S.T. Hadimani reported in (2002) 3 SCC page 25, Hon'ble Supreme Court observed that "in our opinion the Tribunal was not right in placing the onus on the management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in a year preceding his termination. It was the case of claimant that he had so worked but this claim was denied by the Appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone the award is liable to be set aside."

In Rajasthan State Ganga Nagar S Mills Ltd., Vs State of Rajasthan reported in (2004) 8 SCC 161 the Hon'ble Supreme Court observed "It was the case of the workman that he had worked for more than 240 days in the year concerned. This claim was denied by the appellant. It was for the claimant to lead evidence to show that he had in fact worked up to 240 days in the year preceding his termination. He has filed an affidavit. It is only his own statement which is in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that in fact the claimant had worked for 240 days in a year. These aspects were highlighted in "Range Forest Officer .Vs. S.T Hadimani". No proof of receipt of salary or wages for 240 or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour court to hold that the workman had worked for 240 days as claimed".

In Municipal Corporation, Faridabad Vs. Siri Niwas reported in (2004) 8 SCC 195 Hon'ble supreme Court held that the burden was on the workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment.

In R.M. Yellatti Vs Assistant Executive Engineer reported in (2006) 1 SCC page 106 Hon'ble Supreme Court held as follows:-

“17. Analyzing the above decisions of this Court, it is clear that the provisions of the Evidence Act in terms do not apply to the proceedings under Section 10 of the Industrial Disputes Act, However, applying general principles and on reading the aforesaid judgments, we find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily-waged earners, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman (the claimant) can only call upon the employer to produce before the court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register, etc. Drawing of adverse inference ultimately would depend thereafter on the facts of each case. The above decisions however make it clear that mere affidavits or self-serving statements made by the claimant workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The above judgments further lay down that mere non-production of muster rolls *per se* without any plea of suppression by the claimant workman will not be the ground for the Tribunal to draw an adverse inference against the management. Lastly, the above judgments lay down the basic principle, namely, that the High Court under Article 226 of the Constitution will not interfere with the Concurrent findings of fact recorded by the Labour Court unless they are perverse. This exercise will depend upon the facts of each case.”

Now, we may proceed to find out whether the workman has proved that it worked for 240 days in the last preceding 12 calendar months from his date of retrenchment. In the claim petition First Party workman stated that he was appointed as **Daily Rated Driver under Second Party on 01.12.1999 and worked since then till the month of April, 2011. He stated all of the sudden from the month of May, 2011 the Second Party retrenched his service. It didn't state any specific date for such retrenchment.**

Perused the affidavit-in-chief of First Party workman-PW-1. He stated in the same way in the affidavit-in-chief. He further stated that he worked for 14 years to the full satisfaction of the higher authorities of the Second Party as driver. He didn't state any specific date of May, 2011 for his retrenchment, in the affidavit- in -chief. Perused his cross examination he stated nothing about his specific date of retrenchment. From record, as First Party workman stated that he worked till April, 2011 and he was retrenched in the month of May, 2011, I take that First Party worked till 30.04.2011 and he was retrenched from 01.05.2011.

The First Party expressly never said either in his affidavit in chief or in his statement of demand that he worked for 240 days of work in any calendar year atleast in 12 calendar months preceding to the date of retrenchment.

Exhibit 1 (with objection) is certificate of Second Party dated 01.12.2000. It reveals that the First Party worked as jeep driver with Second Party for the last 2 years. However, this document doesn't state that First Party workman worked for 240 days in a year nor it reveals that he was in continuous service as meant U/s.25B of the Industrial Disputes Act. Exhibit-2 is the money receipt issued by the Second Party for wages from 21.10.2001 to 31.10.2001. Exhibit-3 is the letter of District Manager, Second Party for permission to take back 09 persons, including the First Party workman to take to Rangat. Exhibit-4 is another certificate by the Second Party dated 11.08.2008 stating that First Party worked with the Second Party as driver through contractor since 02 years. It is noted “**his performance is good, conduct is satisfactory, very obedient and reliable. Any Govt. /Private organization can utilize his service.**” However, it doesn't reveal that First Party workman worked for 240 days in a year nor it reveals that he was in continuous service as meant U/s.25B of the Industrial Disputes Act. Exhibit-5 is the money receipt issued by First Party workman for the daily wages for 23 days from 01.12.2004 to 31.12.2004 excluding the holidays on 04.12.2004, 05.12.2004, 11.12.2004, 12.12.2004, 18.12.2004 and 03 more holidays. Similarly, Exhibit-6 is also a money receipt by the First Party for his Daily wages for a period from 01.01.2006 to 15.01.2006 for 08 days excluding the public holidays. In the examination in chief PW-1 marked a log book from 16.04.2007 till 31.12.2007. But these entries, as admittedly are for the year 2007 and not so relevant for counting 240 days from 01.05.2010 to 30.04.2011. Which shall be counted in the just preceding 12 calendar months from 01st May, 2011. Exhibit-8 (series) are the Xerox copies of some cheques in the name of M. Surveshwara Rao, Shri.K. Satyanarayana, P. Ravindra Babu Shri A. Krishna Naik. Thereafter Exhibit-9 and 10 also the Xerox copies of the log book from 27.10.2008 and from 06.01.2009 to 13.12.2009. These log books are also not for the relevant period of 2010-11.

Exhibit-10 shows First Party work for 22 days in the month of December, 2008, 28 days in January, 2009, 22 days in February, 2009, 29 days in March, 2009, 24 days in April, 2009. Ext.-14 reveals the statement and particulars for the Daily engaged persons from 01.04.2009 to 30.04.2009. Ext.-15/1 is a Xerox of the log book from 01.01.2010 to 11.03.2011 as stated by PW-1 in his examination in chief, however, perusing the log book it reveals that it is till 10.02.2012, log books did not reveal that who was driving the vehicle.

Perused Ext.-15. First Page dated 31.12.2012 is an RTI reply by Second Party stating that First Party workman worked from 01.01.2010 to 11.03.2011 only on need basis. It also reveals that in July, 2011, Shri. K. P. Mohd. Rafique, Driver, Head Watchman was given additional duty as Driver by FCI and since then Mr. Rafique is driving the office vehicle. The copies of the log book was given under the reply of RTI as disclosed under reply to the

RTI by Second Party dated 31.12.2012. Here, Second Party did not name any other driver except the First Party and Mr. Rafique. Had there been any other driver Second Party should have stated the same on record. In the examination in chief PW-1 stated that the RTI reply show that he was engaged from 01.01.2010 to 11.03.2011 as driver. Now, if the days of entries when the vehicle travelled, is counted in the log book, it is found that First Party workman worked for approximately 175 days from 01.05.2010 to 30.04.2011. Thus, he did not complete 240 days of work in the preceding 12 calendar months from his date of retrenchment i.e., from 01.05.2010 to 30.04.2011. Perused the evidence of PW 2 and documents placed by him. The vehicle entry passes are in the name of the Ist Party Workman. They are dated 16.12.04, 28.12.07, 29.11, 24.06.07, 29.03, 10.11.05, 27.04, 27.09, 18.03, 18.04.06, 18.08.06, 06.09.06, 08.09.06, 11.09.06, 24.08.05, 18.12 & 02.02.05. They are marked Ext.-18 to Ext.-34. Some other vehicle entry passes are also placed by the First Party. Perused. They do not show that 1st party workman worked for 240 days in a given year, much less in the year of 01.05.2010 to 30.04.2011. PW-2 also placed on record some certified copies of the cheques. Ext.-17 is a letter of Second Party dated 07.01.05 for requirement of driver.

Letter dated 21.04.2009 is marked as Ext.-12 by the First Party workman.

Perused Order dated 12.03.2021 in W.P. No.132/2019 by Hon'ble Calcutta High Court at Port Blair. It is observed:-

“However I find in this case that there is atleast one document which may have important bearing on the merits of the petitioner's case. The document is the letter dated April 21, 2009, referred to above. It is not in dispute that the said letter was made a part of the Labour Court records. However, unfortunately, in the order of the Labour Court impugned in this writ petition, there is absolutely no reference to the said letter. I am not for a moment suggesting that the said letter conclusively establishes that the petitioner was in continuous service with the respondent corporation for ten year. However, the Labour Court, in my opinion, ought to have referred to and dealt with the said letter and if necessary should have granted opportunity to the parties to examine the author of the said letter. Since I am of the view that the said letter is a very material document for the purpose of deciding the issue that was before the Labour Court, I set aside the order impugned on the sole ground of non-consideration of the said letter and remand the after back to the Labour Court for deciding the same afresh, in accordance with law, after taking into consideration the aforesaid letter.”

Thus, there is direction from the Hon'ble Court to consider the letter dated 21.04.2009. Parties did not lead fresh evidence on the letter despite sufficient opportunity.

The contents of letter dated 21.04.2009 is reproduced hereunder:-

“Shri. D. Subramaniam, Daily Rated/Van driver of this office has submitted the representation for offer of appointment for the post of Driver/any job in our corporation. Now he is working in this office as Daily Rated Driver since more than 10 years service in this office promptly with full satisfactory by the higher authorities in our corporation.

Therefore, may kindly consider the Daily Rated Driver's obligations and necessary suitable action in this regard”.

From the letter it appears that it is written by the Area Manager, FCI to the Executive Director (South), FCI where requesting to consider First Party's representation for offer of appointment for the post of driver/any job in FCI and for necessary suitable actions. In this letter the Area Manager observed “Now, he is working in this office as Daily Rated Driver since more than 10 years service in this office promptly with full satisfaction by the higher authorities in our corporation”. This letter is dated 21.04.2009. As directed by Hon'ble Supreme Court in the preceding decisions namely (2018)15 Supreme Court Cases page-641, First Party workman is required to prove 240 days of work from 01.05.2010 to 30.04.2011 and this letter of 21.04.2009 is of no help in that manner. Moreover, for taking this letter as admission against Second Party it has to be unambiguous, unequivocal and clear. The letter doesn't indicate that how the workman worked for 240 days in any year. It appears to a recommendation by the Area Manager to the superior of FCI to take case of First Party favourably for his long association with FCI. It doesn't prove the technical term of continuous service, in as much as, working of 240 days in the preceding 12 calendar months from 01.05.2010. Perused Written Arguments of both parties.

Therefore, First Party workman could not prove that he worked for 240 days in the preceding 12 calendar months or the continuous service with the Second Party.

POINT NO.2

Section 25F of Industrial Disputes Act is reproduced hereunder:-

Conditions precedent to retrenchment of workmen - No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

- a. The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- b. The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay [for every completed year of continuous service] or any part thereof in excess of six months; and
- c. Notice in the prescribed manner is served on the appropriate Government [for such authority as may be specified by the appropriate Government by notification in the Official Gazette].

It is settled position of law by several decisions of Hon'ble Supreme Court that to be entitled for the protection and benefit of Section 25F of Industrial Disputes Act. The workman has to prove that it worked for 240 days in the preceding 12 calendar months, immediately before and from the date of his retrenchment. As held in Point No.1, the workman could not prove his 240 days of work in the preceding 12 calendar months from his retrenchment, the First Party workman in this case is not entitled for the benefits U/s.25F of Industrial Disputes Act. I rely on the decision of Hon'ble Supreme Court namely Krishna Bagya Jal Nigam Limited Vs. Mohammed Rafique reported as (2006) 9 SCC page-697. I also rely the decision of Hon'ble Supreme Court namely Mohd. Ali vs. state of Himachal Pradesh and others reported in (2018) 15 SCC page 641, where Hon'ble supreme Court held that the workmen are not entitled to the benefit of Section 25F of Industrial Disputes Act since he had not worked for required 240 days in the year preceding his dismissal.

POINT NO.3

Any regularization can be done against a permanent post. Creation of permanent post is in the domain of the appropriate government. It is not disputed by the First Party workman that it was working as casual worker on daily wages- called Daily Rated Driver. Therefore, the First Party workman was not working against any permanent post. Moreover, it is not on record that the First Party workman was appointed after following the procedure, by giving public notice of vacancy inviting the applicants from the citizens of India. Therefore, the First Party workman is not entitled for regularization of his work.

POINT NO.4

First Party workman is not entitled for the relief of reinstatement, regularization & back wages.

Hence, it is

Ordered

that the ID Case No.10/2013 is dismissed on contest without costs. The retrenchment of the First Party workman by the Second Party Department is not hit by Section 25F of Industrial Disputes Act. Such retrenchment is not unjustified or illegal. The First Party workman is not entitled for his reinstatement, regularization and back wages.

Let a copy of this judgment be sent to the Assistant Secretary (Labour) for information.

Dictated and corrected by me.

BIJOYESH GHOSAL, Presiding Officer

नई दिल्ली, 2 सितम्बर, 2022

का.आ. 784.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. सी.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 141/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/28/2001-आई.आर. (सी-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 2nd September, 2022

S.O. 784.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 141/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/28/2001-IR (C-I)]

RAJENDER SINGH Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947**Reference: No. 141/2001**

Employer in relation to the management of Kusunda Area of M/s. BCCL.

AND**Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer**Appearances:**

For the Employers :- Sri N. Nath, O.S. Legal

For the workman. :- None

State : Jharkhand.

Industry:- Coal

Dated 28.07./2022

AWARD

By Order No.L-20012/28/2001-(C-I) dated 18/24.05.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/s. BCCL, Kusunda Area, in dismissing Sh. Ratan Saw from service w.e.f. 6.3.99 is just, fair and legal? If not, to what relief is the workman concerned entitled?”

2. This reference is received on 20/06/2001 by this Tribunal in which the Vice President, Rashtriya Colliery Mazdoor Sangh, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of received of the reference but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed and union/workman did not appear before the Tribunal but management had appeared on 02/12/2020, 04/01/2020 and 02/06/2022. Now Case is pending since 20/06/2001 and workman/union is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 2 सितम्बर, 2022

का.आ. 785.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी. सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 240/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/377/2001-आई.आर. (सी-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 2nd September, 2022

S.O. 785.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 240/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/377/2001 – IR (C-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 240/2001

Employer in relation to the management of Bhora (S) OCP of M/s. BCCL

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : Sri D.K. Verma, Advocate

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 27.07./2022

AWARD

By Order No.L-20012/377/2001-IR (C-I) dated 07.11.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the stand of the management of Bhora (S) OCP of BCCL’s in not providing employment to Sri Ajan Manjhi, dependent of Late Sukurmani Majhian is justified? If not, to what relief is the said workman entitled?”

2. This reference is received on 27/11/2001 by this Tribunal in which the Assistant Secretary, J.S.S. Katras, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the union/workman did not appear before the Tribunal. However, after receipt of the reference, both parties were noticed and both parties appeared for certain dates, but subsequently workman/union left appearing before this Tribunal. Thereafter, again regd. notices were issued to both the parties but the notice dated 15/01/2021 issued to workman/union returned with endorsement “Addressee not found”. Now this case is pending since 27/11/2001 and workman/union is not appearing before Tribunal, so it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate

D. K. SINGH, Presiding Officer

नई दिल्ली, 2 सितम्बर, 2022

का.आ. 786.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 50/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/450/2000-आई.आर. (सी-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 2nd September, 2022

S.O. 786.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/450/2000 – IR (C-I)]

RAJENDER SINGH Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947**Reference: No. 50/2001**

Employer in relation to the management of Bastacolla Area of M/s. BCCL

AND**Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer**Appearances:**

For the Employers : None

For the workman. : Sri Sadhu Sharan Pd, Representative

State : Jharkhand.

Industry:- Coal

Dated 28.07.2022

AWARD

By Order No.L-20012/450/2000-(C-I) dated 19.02.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/s BCCL in not allowing the workman to resume duty and in not making the payment of wages or subsistence allowance, pending enquiry, is justified and legal? If not, to what relief is the workman entitled?”

2. This reference is received on 08/03/2001 by this Tribunal in which the Joint General Secretary, Jharkhand Janta Mazdoor Union, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed and workman/union appeared for certain dates but the management did not appear before the Tribunal. Further in course of hearing of the case, the Representative of Sponsoring Union Sri Sadhu Sharan Prasad has informed that neither concerned workman nor any family member is interested to contest the case. In view of such it is felt that the workman/union has lost its interest in this matter. Hence “No Claim” award is passed. communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2022

का.आ. 787.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी. सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 143/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/31/2001-आई.आर. सी-1]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 5th September, 2022

S.O. 787.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 143/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/31/2001 – IR (C-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 143/2001

Employer in relation to the management of Sijua Area of M/s. BCCL

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 27.07./2022

AWARD

By Order No.L-20012/31/2001-(C-I) dated 18/24.05.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of BCCL in superannuating Sh. Oli Mohammad from service w.e.f. 5.2.93 is justified? If not, to what relief is the concerned workman entitled?”

2. This reference is received on 20/06/2001 by this Tribunal in which the Organising Secretary, Rashtriya Colliery Mazdoor Sangh, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of received of the reference but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but neither the union/workman nor the management appeared before the Tribunal. Now case is pending since 20/06/2001 and workman/union as well as management is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2022

का.आ. 788.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 134/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/95/2001-आई.आर. (सी-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 5th September, 2022

S.O. 788.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 134/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/95/2001 – IR (C-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947**Reference: No. 134/2001**

Employer in relation to the management of Basantimata Colliery of M/s. BCCL

AND**Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer.**Appearances:**

For the Employers : Sri S.N. Ghosh, Advocate

For the workman. : None

State : Jharkhand.

Industry:- Coal

Dated 28.07.2022

AWARD

By Order No.L-20012/95/2001-(C-I) dated 22.05.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“क्या भारत कोकिंग कोल लिमि., बसंतीमता कोलि के प्रबंधतंत्र द्वारा श्री दशरथ लाल को बर्खास्त किया जाना न्यायोचित, विधिवत एवं सही है? यदि नहीं तो कर्मकार किस राहत के पात्र हैं?”

2. The reference is received on 20/06/2001 by this Tribunal in which the Vice President, Bihar Pradesh Colliery Mazdoor Congress, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the union/workman did not appear before the Tribunal. However, after receipt of the reference, both parties were noticed and both parties appeared for certain dates, but subsequently workman/union left appearing before this Tribunal. Thereafter, again two regd. notices were issued to both the parties but the notice dated 30/09/2020 issued to union returned with endorsement “Addressee not found”. Now this case is pending since 20/06/2001 and workman/union is not appearing before Tribunal, so it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2022

का.आ. 789.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 187/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/287/2000-आई.आर. (सी-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 5th September, 2022

S.O. 789.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 187/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/287/2000 – IR (C-I)]

RAJENDER SINGH Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 187/2001

Employer in relation to the management of Kusunda Area of M/s. BCCL

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : None

For the workman. :- None

State : Jharkhand.

Industry:- Coal

Dated 27.07 .2022

AWARD

By Order No.L-20012/287/2000-IR (C-I) dated 29.08.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“क्या भारत कोकिंग कोल लिमिटेड कुसुंडा क्षेत्र के प्रबंधन द्वारा श्री उमार मियां के आश्रित पुत्र को अनुकंपा आधार पर एन सी डबल्यू ए के पैरा 9.4.3 के अंतर्गत नियुक्ति न दिया जाना उचित एवं न्यायसंगत है? यदि नहीं तो उक्त कर्मकार के आश्रित पुत्र किस लाभ के पात्र हैं?”

2. This reference is received on 21/09/2001 by this Tribunal in which the President, National Colliery Workers Congress, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but neither the union/workman nor the management appeared before the Tribunal. Now case is pending since 21/09/2001 and workman/union as well as management is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2022

का.आ. 790.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी. सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 119/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/63/2001-आई.आर. (सी-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 5th September, 2022

S.O. 790.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 119/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/63/2001 – IR (C-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act. 1947**Reference: No. 119/2001****Employer in relation to the management of Bararee Colliery of M/s. BCCL****AND****Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer**Appearances:**

For the Employers : None

For the workman. : Sri N.G. Arun, Representative

State : Jharkhand.

Industry:- Coal

Dated 28.07.2022

AWARD

By Order No.L-20012/63/2001-(C-I) dated 22.05.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of BCCL, Bararee Colliery in dismissing Sh. Bidan manjhi from service w.e.f. 16.10.97 is just, fair and legal? If not, to what relief is the workman entitled?”

2. This reference is received on 20/05/2001 by this Tribunal in which the Organizing Secretary, RCMS, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but neither the workman/union nor the management appeared before the Tribunal. Further in course of hearing of the case, the Representative of Sponsoring Union Sri N.G. Arun appeared but neither filed any written statement nor pressed this case. In view of such it is felt that the workman/union has lost its interest in this matter. Hence “No Claim” award is passed. communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2022

का.आ. 791.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. सी.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 67/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/15/2005-आई.आर. (सी-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 5th September, 2022

S.O. 791.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/15/2005 – IR (C-I)]

RAJENDER SINGH Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 67/2005

Employer in relation to the management of Bastacolla Area of M/s. BCCL

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand

Industry:- Coal

Dated 27.07.2022

AWARD

By Order No.L-20012/15/2005-IR (C-I) dated 26.07.2005 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the Bihar Colliery Kamgar Union from the management of BCCL Bastacolla Area that Sh. Jagdish Rewani may be regularized as Prop Mistry with all consequential benefits is just and fair? If so, to what relief is the workman entitled and from what date?”

2. This reference is received on 22/08/2005 by this Tribunal in which the Secretary, Bihar Colliery Kamgar Union, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but neither the union/workman nor the management appeared before the Tribunal. Now case is pending since 22/08/2005 and workman/union as well as management is not appearing before Tribunal, so it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2022

का.आ. 792.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 150/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/497/1999-आई.आर. (सी-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 5th September, 2022

S.O. 792.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 150/2000) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/497/1999 – IR (C-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act. 1947**Reference: No. 150/2000**

Employer in relation to the management of Gopalchak Colliery under P.B. Area of M/s. BCCL

AND**Their workman****Present:** Shri Dinesh Kumar Singh, Presiding Officer**Appearances:**

For the Employers : Sri Anant Mohan Sinha, Advocate

For the workman. : Sri Sadhu Sharan Pd., Representative

State : Jharkhand

Industry:- Coal

Dated 28.07.2022

AWARD

By Order No.L-20012/497/1999- IR (C-I) dated 02.03.2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management in dismissing Sri Jaya Bauri from the service is justified and proper? If not, to what relief is the workman entitled?”

2. This reference is received on 13/03/2000 by this Tribunal in which the General Secretary, JJMU, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed and both parties appeared for certain dates. Further in course of hearing of the case, the Representative of Sponsoring Union Sri Sadhu Sharan Prasad has informed that neither the concerned workman nor his family member is interested in contesting the case. In view of such it is felt that the workman/union has lost its interest in this matter. Hence “No Claim” award is passed. communicate.

D. K. SING, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2022

का.आ. 793.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 40/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.08.2022 को प्राप्त हुआ था।

[सं. एल-22012/137/2004-आई.आर. (सीएम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, 6th September, 2022

S.O. 793.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2005) of the Central Government Industrial Tribunal-cum-Labour Court JABALPUR as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L. and their workmen, received by the Central Government on 23.08.2022.

[No. L-22012/137/2004 – IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/40/2005

Present: P. K. Srivastava, H.J.S..(Retd)

The M.P. Koyla Mazdoor Sabha (HMS)
Branch Sohagpur, Area of SECL
Near GM Office Dhanpuri,
Shahdol (M.P.)

...Workman

Versus

The Chief General manager,
Sohargpur Area of SECL,
P.O.Dhanpuri,
Shahdol (M.P.)

...Management

AWARD

(Passed on 21-7-2022)

As per letter dated 24/5/2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/137/2004-IR(CM-II).The dispute under reference relates to:

“Whether the action of the Chief General manager, Sohagpur Area of SECL in not promoting Shri Iban Khan, Clerk, CAT.II to Clerk Cat.III(General Clerical Cadre) and superseding him by promoting Shri Ikram Ali & Surendra Kumar Mishra is legal and justified? If not, to what relief the workman is entitled?.”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective statement of claim/defence.
2. The case of the workman as stated in his statement of claim is that he joined services as general mazdoor in General Category in 1982 on establishment of second party. That Shri Ikram Ali joined services in 1981 and Surendra Kumar Mishra joined services in 1989. He was regularized as Clerk Grade-III in 1989. First party workman was improperly regularized as Tripman Grade-III in 1995. Ikram Ali was regularized in 1994 and Surendra Kumar Mishra was regularized in 1993. It is further submitted by workman that he was required to be regularized in Clerk Grade because he was working in the office of the Executive Engineer (EXCV) Dhanpuri. That because of improper and delayed regularization, he was deprived of permanent benefits. He submits copy of the order of regularization dated 13-8-1995. That Shri Ikram Ali and Shri Surendra Kumar Mishra were promoted in Clerical Grade-III. That workman was recommended for regularization in July 1992. However those papers were not traceable. Therefore

again his name was recommended in clerical grade with retrospective right. It is alleged that because of clerical grade with retrospective right. It is alleged that because of such mistake he has been deprived of promotion to clerk Grade-III, Grade-II on such ground, workman prays that second party be directed to regularize him in clerical Grade from 1992 and consequential benefits be granted to him from the date Shri Ikram Ali and Shri Surendra Kumar Mishra was promoted.

3. Second party field written statement at part 8/1 to 8/4. The claim of the first party workman is opposed. It is submitted that Ikram Ali and Surendra Kumar Mishra are not impleaded in the reference, that adverse allegation are made against Shri Ikram Ali and Surendra Kumar Mishra cannot be decided without any notice to them therefore relief prayed by workman is not tenable. It is further contended that the workman has already been promoted to the post of trip man/clerk Grade-III. That after recommendations of DPC, he was re-designated as Trip man Grade-III to General Clerk Grade-III. That workman Iban Khan was initially appointed in 1983 as general mazdoor category-1 and posted at Dhanpuri, Sohagpur Area. That on recommendation of DPC workman along with 17 others were considered for re-designation. Second party has given details of service of first party workman and Ikram Ali and Surendra Kumar Mishra. First party workman initially appointed on 6-7-1983, next promotion on 14-8-1985 General Mazdoor Category-II from 21-10-89, EPGH GR-E from 14-8-95 Tripman Clerk Gr-III. That Shri Ikram Ali was appointed on 1-9-80 promoted on 1-1-94 clerk Grade-III. Shri Surendra Kumar Mishra was initially appointed on 20-1-89 promoted as Clerk Grade-III from 2-5-93 Clerk Grade-II from 1-6-01. Second Party submits that the promotions were given as per recommendations of DPC, the first party cannot compare with Shri Ikram Ali and Surendra Kumar Mishra, Second Party prayed for rejection of the relief prayed by workman.

4. The workman Ikram Khan has examined himself and has been cross-examined by management. The Management has examined its witness S.P.Patnaik Personnel Manager on oath. It comes out from perusal of record that the Award has been passed in this case by my learned predecessor on 2-8-2013 holding the action of management in not promoting the workman from General Mazdoor Category-II to Clerk Gr-III and superseding him by promoting his co-workman Ikram Ali and Surendra Kumar Mishra as illegal and also directed the Management to give benefit of consequential benefits from 20-5-1993 and Grade-II from 1-6-2001. This Award was challenged by Management in W.P.No.13772/2014 which was decided by a Single Bench of Hon'ble High Court of M.P. vide order dated 11-8-2006. Hon'ble Court observed that two issues one with respect to non-joinder of co-workers Ikram Ali and Surendra Kumar Mishra and regarding the dispute being barred by delays and latches on the part of the workman in raising the present dispute was not decided by my learned Predecessor. Further it was observed by Hon. High court that the workman admitted that applications were invited for the purposes of promotion, test was conducted and after selection by Promotion Committee, promotion order was issued. But the impact of non-filing of application by the applicant for promotion was not examined by the learned Predecessor. Also that my learned Predecessor travelled beyond the scope of reference in issuing directions for issuance of promotion on Grade-I, instead of directing the Management to consider the applicant workman for promotion as per rules which was in violation of law laid down in the case of Management of **Brook bond India Pvt. Ltd Vs. Workman** AIR 1966 SC 668, Hon. Court after setting aside the Award remanded back the case before this Tribunal to frame necessary issues and decide the reference afresh in accordance with the law by taking into Account the observations made in the judgment. In compliance of aforesaid judgment of Hon'ble High Court two issues were framed separately:-

(1) Whether the reference is bad due to non-joinder of necessary parties ?

(2) Whether the claim of the workman is barred by latches?"

5. Needless to mention here that these two issues were framed by my Learned Predecessor along with other issues vide his order dated 18-1-2017 but no finding was recorded by him on these two issues.

6. Notices were issued to the co-workers Ikram Ali and Surendra Kumar Mishra. Shri S.K.Mishra appeared but did not contest the reference. Ikram Ali was reported to be dead and his legal representation did not prefer to get themselves substituted in his place.

7. I have heard arguments of Shri Harish Chandra Singh, learned counsel for the workman and Shri A.K.Shashi, learned counsel for the Management and have gone through the record. The following issues are framed in the case in hand:-

(1) Whether the claim of first party is barred by non-joinder of necessary parties?

(2) Whether the dispute is barred due to latches.?

(3) Whether the action of management in not promoting the workman from clerk grade-III to Clerk Grade-II and promoting Ikram Ali and Surendra Kumar Mishra is legal?

(4) If so, to what relief the workman is entitled to?"

8. ISSUE NO.1:-

Co-workman Ikram Ali and Surendra Kumar Mishra, though not impleaded in the reference were impleaded as opposite party in the statement of claim probably due to oversight no notice were sent to them earlier. It is in compliance of directions of Hon. High Court referred to above in Writ petition notices were sent to them. Ikram Ali was reported to be dead and his legal representative did not prefer to be substituted in his place. Shri S.K.Mishra was served but he preferred not to contest the claim. These two co-workman are necessary parties because if the Award goes in favour of the workman, their interest was to be effected but since this anomaly has been cured now the reference is held not bad due to non-joinder of these co-workman as necessary parties. **Issue No.1 is decided accordingly.**

9. ISSUE NO.2 7 ISSUE NO.3:-

For the sake of convenience, these issues are being taken together. Issue No.3 is taken earlier. The case of the parties with respect to this issue has been detailed earlier. It is the case of the applicant workman that he had his co-workman Ikram Ali and Surendra Kumar Mishra all were appointed in General Mazdoor category. The applicant workman was appointed in 1982 Ikram Ali in the year 1981 and Surendra Kumar Mishra in 1989. It is also not disputed that Ikram Ali was appointed clerk Grade-III in the year 1994 and Shri S.K.Mishra in the year 1993. Admittedly the applicant workman was appointed as a Trip Man Clerical Grade-III in 1995 which was converted and reduced into the General Category-III vide order of Management dated 1998. The main grievance of applicant workman appears that according to him he was eligible to be appointed Clerk Grade-III in 1992 itself. His case was considered and he was recommended accordingly in the year 1992 but his file went missing then he was recommended for this post on 3-5-1994. Report of Senior Executive Engineer Operation Second and Executive Engineer Operation Second dated 2-5-1994 has been referred to by learned counsel for workman in this respect which goes to show that his case for regularization in the clerical cadre was initially forwarded in July-1992 but file was not traceable. Now he is being again recommended for regularization as clerk Grade-III with retrospective effect. It has been submitted by learned counsel for workman that had the Management approved this recommendation, he would have been promoted since 1992 as Clerk Grade-III. The learned counsel for the Management has submitted that only recommendation is not sufficient till it is approved by the Competent Authority. Learned Counsel has referred to Judgment of Hon. The Apex Court in the case of **Union of India Vs. K.C.Mandal** AIR (2010) SC 3455 wherein in Hon. The Apex Court held "that the note presented has no legal value till it is accepted/approved by the Competent Authority and the order is passed by the Competent Authority in this respect". In the case in hand also there is nothing to indicate that this recommendation note of 2-5-1994 as mentioned above was accepted/approved by Competent Authority. Now the question arises whether the Competent Authority was bound to approve this note. A reference of Cadre Scheme of Ministerial Staff General Clerical Cadre requires to be made here according to this Cadre Scheme mode of promotion to the Clerical Cadre Clerical Grade-III is selection/test and Clerk Grade-III is the basic post of clerical cadre. When there is a selection, test has to be conducted for appointment on the post of clerk Grade-III as per the cadre scheme in absence of any material to show that this recommendation note was sent on the basis of selection/test process conducted for appointment of clerk grade-III, this recommendation note does not carry any value and the Competent Authority was fully justified under Rules in not approving it.

10. Hon. The High Court has made an observation that it was issued by the workman in his statement that application were invited in the year 1992 for appointment in clerical Grade-III and a test was conducted and thereafter the Committee was to make recommendation for Clerk Grade-III. The workman further admitted that he had not filed any application nor did he appear in any test or selection, the impact of this factual scenario also requires to be considered by this Tribunal. When it is established that Clerk Grade-III is not a post for promotion/rather channel for appointment on this post is through selection/test and the workman admits that though the application were invited but he did not submit any application nor did he appear in any selection/test in 1992 naturally he was not be considered for Clerk Grade-III in the year 1992. Thus the action of the Management in this respect cannot be said to be against law. It is also established that Ikram Ali was appointed as Clerk Grade-III on 1-1-1994 and Surendra Kumar Mishra was appointed as Clerk Grade-III on 2-5-1993 and the workman was appointed as Trip Man which was equivalent to Clerk Grade-III on August-1995 before that all the three were general mazdoor. Hence naturally Ikram Ali and Surendra Kumar Mishra would senior to the applicant workman because they were earlier appointed as clerk Grade-III, hence granting promotion to Ikram Ali and Surendra Kumar Mishra and post them as Clerk Grade-II earlier than the applicant workman cannot be said to be arbitrary because as per Cadre Scheme promotion from Clerk Grade-III to Clerk Grade-II was to be done on the recommendation of Departmental Promotion Committee in which the essential qualifications were three years' experience as Clerk Grade-III which the co-workman Ikram Ali and Surendra Kumar Mishra got earlier than the applicant workman, hence in the light of these facts and circumstances the action of the management cannot be said to be arbitrary and against law. **Issue No.3 is answered accordingly.**

11. Issue No.2:-

As regards Issue No.2 regarding delays and laches on the part of the applicant workman in raising the dispute, the present dispute was raised after a lapse of 6 to 7 years. Learned Counsel for the management has referred to Judgment of Hon'ble the Apex Court in case of **A.J.Ferandis Vs. Divisional Manager, Central Railway**(2001)(1)

SCC 240 para-14” where delay of 4 years in dispensing promotion of co-workman was held barred by latches”. In the case in hand also, the claim is held barred by latches because it was raised after delay of more than six years . **Issue No.2 is answered accordingly.**

12. Issue No.4:- In the light of the finding recorded earlier, applicant workman is held entitled to no relief. **Issue No.4 is answered accordingly.**

13. On the basis of the above discussion, following award is passed:-

A. The action of the Chief General manager, Sohagpur Area of SECL in not promoting Shri Iban Khan, Clerk, CAT.II to Clerk Cat.III(General Clerical Cadre) and superseding him by promoting Shri Ikram Ali & Surendra Kumar Mishra is held to be legal and justified.

B. The workman is held entitled to no relief.

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

DATE: 21.7.2022

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 सितम्बर, 2022

का.आ. 794.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आकाश कोक इंडस्ट्रीज (पी) लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 145/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/78/2001-आई.आर. (सी-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 7th September, 2022

S.O. 794.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 145/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of Akash Coke Industries (P) Ltd. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/78/2001 – IR (C-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 145/2001

Employer in relation to the management of Akash Coke Industries (P) Ltd., Dayoli, Govindpur

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand

Industry:- Coal

Dated 27.07.2022

AWARD

By Order No.L-20012/78/2001-(C-I) dated 18/24.05.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/s. Akash Coke Industries (P) Ltd. in dismissing Sh. Sunil Mandal, Munshi from the services of the Company w.e.f. 22.2.99 is just, fair and legal? If not, to what relief is the workman concerned entitled?”

2. The reference is received on 20/06/2001 by this Tribunal in which the Joint General Secretary, Dalit Mazdoor Sangh, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of the receipt of the reference but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but neither the union/workman nor the management appeared before the Tribunal. Now case is pending since 20/06/2001 and workman/union as well as management is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 7 सितम्बर, 2022

का.आ. 795.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, धनबाद के पंचाट (संदर्भ संख्या 43/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26.08.2022 को प्राप्त हुआ था।

[सं. एल-20012/502/2000-आई.आर. (सी-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 7th September, 2022

S.O. 795.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.1, DHANBAD as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 26.08.2022.

[No. L-20012/502/2000 – IR (C-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947

Reference: No. 43/2001

Employer in relation to the management of Western Jharia Area. Moonidih of M/s. BCCL

AND

Their workman

Present: Shri Dinesh Kumar Singh, Presiding Officer

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand

Industry:- Coal

Dated 28.07.2022

AWARD

By Order No.L-20012/502/2000-(C-I) dated 12.02.2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/s. BCCL in terminating the services of the workman Shri Pashupati Mahato, T.No. 5822 P.R.M. of Moonidih Project w.e.f. 6.1.99 is justified, legal and proper? If not, to what relief is the workman entitled?”

2. This reference is received on 08/03/2001 by this Tribunal in which the Joint Secretary, Zonal Committee, BCCL Zone, Hirapur, Dhanbad had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of received of reference but the union/workman did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but union/workman did not appear before the Tribunal but management had appeared on 31/12/2021. Thereafter management failed to appear before the Tribunal. Now Case is pending since 08/03/2001 and workman/union is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence “No Claim” Award is passed. Communicate.

D. K. SINGH, Presiding Officer

नई दिल्ली, 7 सितम्बर, 2022

का.आ. 796.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 2, धनबाद के पंचाट (संदर्भ संख्या 22/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.08.2022 को प्राप्त हुआ था।

[सं. एल-20013/01/2022-आई.आर. (सीएम-1)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 7th September, 2022

S.O. 796.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2019) of the Central Government Industrial Tribunal-cum-Labour Court No 2, Dhanbad as shown in the Annexure, in the industrial dispute between the Management of B.C.C.L. and their workmen, received by the Central Government on 10.08.2022.

[No. L-20013/01/2022 – IR (CM-I)]

RAJENDER SINGH, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD**

PRESENT : Dr. S. K. THAKUR, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947

REFERENCE NO 22 OF 2019**PARTIES:**

The Jt. Gen. Secretary,
Bahujan Mazdoor Union,
Mines Rescue Station, Dhansar, Dhanbad,

Vs.

The General Manager,
Katras Area of M/s BCCL,
PO: Sijua, Distt: Dhanbad

Dv. CLC,Dhnbad Order No.,2/(46)/2019/B-I dt . 8.08.2019

On behalf of the workman/Union : None

On behalf of the Management : Management Representative

State : **Jharkhand**

Industry : **Coal**

Dated, Dhanbad, the 22nd March, 2022

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their **Dy.CLC,Dhnbad Order No.2/(46)/2019/B-I dt. 8.08.2019.**

SCHEDULE

“Whether the action of the management Munidih Colliery under Katras Area of M/s BCCL is fair and justified? If not, non-inclusion of proper SPRA in the basic pay and wrong fitment of basic pay I/R of Shri Om Prakash Yadav, Doozer Operator? If not, what relief the disputant is entitled ? ”

1. Having been registered by Ref Case as 22-2019 prompt notices were issued to both the sides of the litigants, i.e., the workman as well as Respondent/Management The notices under issuance were understood to have been delivered at its destinations as not a single turned undelivered. As part of natural justice ample opportunities by way notices dt.17.08.2021 and 07.12.2021 were served to the parties for hearing .Even after such opportunities given the workman did not file the written statement of claim nor did take initiative for appearance .The gesture and conduct of the workman spelt out the dispute under reference does not exist at all by and between the parties .

2. Management Representative in course of hearing admitted to have resolved the dispute by filing a petition to this effect dated 17.01.22 enclosing thereby a petition of the workman under his signature thereon to the effect. The OP/Management also referred the fact that the matter of dispute was also raised on the same footing from two different sources , by the ministry as well as the Dy.CLC (C) , Dhanbad and so both cannot run concurrently and so one reference has become redundant.

3. Since the workman has neither approached directly nor filed any claim even after providing ample opportunities and lastly came out to avert that the dispute does not exist .Under the present status particularly when the issue does not exist as stated by the Management and on behalf of the workman the Tribunal finds no jurisdiction to exercise when the workman himself opted for no-adjudication in the matter . Tribunal finds it constrained to declare that the present Reference no longer exists as no claim is expected to be made out by the workman and this Tribunal is left with no scope except to pass a “No Claim Award”. Accordingly “No Claim Award” is passed in the instant reference ID No. 22/2019.

3. Let the copy of the Award be sent to the Appropriate Government as required under the Act for publication.

Dr. S. K. THAKUR, Presiding Officer